

109TH CONGRESS
1ST SESSION

H. R. 2251

To amend the Internal Revenue Code of 1986 to exclude from gross income the proceeds from certain company-owned life insurance.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2005

Mr. REYNOLDS (for himself, Mr. POMEROY, Mr. SHAW, Mrs. JOHNSON of Connecticut, Mr. HERGER, Mr. MCCRERY, Mr. CAMP, Mr. RAMSTAD, Mr. NUSSLE, Mr. SAM JOHNSON of Texas, Mr. ENGLISH of Pennsylvania, Mr. HAYWORTH, Mr. WELLER, Mr. HULSHOF, Mr. LEWIS of Kentucky, Mr. FOLEY, Mr. BRADY of Texas, Mr. RYAN of Wisconsin, Mr. LINDER, Mr. BEAUPREZ, Ms. HART, Mr. CHOCOLA, Mr. CARDIN, Mr. NEAL of Massachusetts, Mr. McNULTY, Mr. JEFFERSON, Mr. TANNER, Mr. THOMPSON of California, Mr. LARSON of Connecticut, Mr. TERRY, Mr. CULBERSON, Mr. GALLEGLY, Mr. DENT, and Mr. PUTNAM) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to exclude from gross income the proceeds from certain company-owned life insurance.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “COLI Best Practices
5 Act of 2005”.

1 **SEC. 2. TREATMENT OF DEATH BENEFITS FROM COR-**
2 **PORATE-OWNED LIFE INSURANCE.**

3 (a) IN GENERAL.—Section 101 of the Internal Rev-
4 enue Code of 1986 (relating to certain death benefits) is
5 amended by adding at the end the following new sub-
6 section:

7 “(j) TREATMENT OF CERTAIN EMPLOYER-OWNED
8 LIFE INSURANCE CONTRACTS.—

9 “(1) GENERAL RULE.—In the case of an em-
10 ployer-owned life insurance contract, the amount ex-
11 cluded from gross income of an applicable policy-
12 holder by reason of paragraph (1) of subsection (a)
13 shall not exceed an amount equal to the sum of the
14 premiums and other amounts paid by the policy-
15 holder for the contract.

16 “(2) EXCEPTIONS.—In the case of an employer-
17 owned life insurance contract with respect to which
18 the notice and consent requirements of paragraph
19 (4) are met, paragraph (1) shall not apply to any of
20 the following:

21 “(A) EXCEPTIONS BASED ON INSURED’S
22 STATUS.—Any amount received by reason of
23 the death of an insured who, with respect to an
24 applicable policyholder—

1 “(i) was an employee at any time dur-
2 ing the 12-month period before the in-
3 sured’s death, or

4 “(ii) is, at the time the contract is
5 issued—

6 “(I) a director,

7 “(II) a highly compensated em-
8 ployee within the meaning of section
9 414(q) (without regard to paragraph
10 (1)(B)(ii) thereof), or

11 “(III) a highly compensated indi-
12 vidual within the meaning of section
13 105(h)(5), except that ‘35 percent’
14 shall be substituted for ‘25 percent’ in
15 subparagraph (C) thereof.

16 “(B) EXCEPTION FOR AMOUNTS PAID TO
17 INSURED’S HEIRS.—Any amount received by
18 reason of the death of an insured to the ex-
19 tent—

20 “(i) the amount is paid to a member
21 of the family (within the meaning of sec-
22 tion 267(c)(4)) of the insured, any indi-
23 vidual who is the designated beneficiary of
24 the insured under the contract (other than
25 the applicable policyholder), a trust estab-

lished for the benefit of any such member
of the family or designated beneficiary, or
the estate of the insured, or

“(ii) the amount is used to purchase
an equity (or capital or profits) interest in
the applicable policyholder from any person
described in clause (i).

“(3) EMPLOYER-OWNED LIFE INSURANCE CON-
TRACT.—

“(A) IN GENERAL.—For purposes of this
subsection, the term ‘employer-owned life insur-
ance contract’ means a life insurance contract
which—

“(i) is owned by a person engaged in
a trade or business and under which such
person (or a related person described in
subparagraph (B)(ii)) is directly or indi-
rectly a beneficiary under the contract, and

“(ii) covers the life of an insured who
is an employee with respect to the trade or
business of the applicable policyholder on
the date the contract is issued.

For purposes of the preceding sentence, if cov-
erage for each insured under a master contract
is treated as a separate contract for purposes of

1 sections 817(h), 7702, and 7702A, coverage for
2 each such insured shall be treated as a separate
3 contract.

4 “(B) APPLICABLE POLICYHOLDER.—For
5 purposes of this subsection—

6 “(i) IN GENERAL.—The term ‘applica-
7 ble policyholder’ means, with respect to
8 any employer-owned life insurance con-
9 tract, the person described in subpara-
10 graph (A)(i) which owns the contract.

11 “(ii) RELATED PERSONS.—The term
12 ‘applicable policyholder’ includes any per-
13 son which—

14 “(I) bears a relationship to the
15 person described in clause (i) which is
16 specified in section 267(b) or
17 707(b)(1), or

18 “(II) is engaged in trades or
19 businesses with such person which are
20 under common control (within the
21 meaning of subsection (a) or (b) of
22 section 52).

23 “(4) NOTICE AND CONSENT REQUIREMENTS.—

24 The notice and consent requirements of this para-

graph are met if, before the issuance of the contract, the employee—

“(A) is notified in writing that the applicable policyholder intends to insure the employee’s life and the maximum face amount for which the employee could be insured at the time the contract was issued,

“(B) provides written consent to being insured under the contract and that such coverage may continue after the insured terminates employment, and

“(C) is informed in writing that an applicable policyholder will be a beneficiary of any proceeds payable upon the death of the employee.

“(5) DEFINITIONS.—For purposes of this subsection—

“(A) EMPLOYEE.—The term ‘employee’ includes an officer, director, and highly compensated employee (within the meaning of section 414(q)).

“(B) INSURED.—The term ‘insured’ means, with respect to an employer-owned life insurance contract, an individual covered by the contract who is a United States citizen or resi-

1 dent. In the case of a contract covering the
 2 joint lives of 2 individuals, references to an in-
 3 sured include both of the individuals.”.

4 (b) REPORTING REQUIREMENTS.—Subpart A of part
 5 III of subchapter A of chapter 61 of such Code (relating
 6 to information concerning persons subject to special provi-
 7 sions) is amended by inserting after section 6039H the
 8 following new section:

9 **“SEC. 6039I. RETURNS AND RECORDS WITH RESPECT TO**
 10 **EMPLOYER-OWNED LIFE INSURANCE CON-**
 11 **TRACTS.**

12 “(a) IN GENERAL.—Every applicable policyholder
 13 owning 1 or more employer-owned life insurance contracts
 14 issued after the date of the enactment of this section shall
 15 file a return (at such time and in such manner as the
 16 Secretary shall by regulations prescribe) showing for each
 17 year such contracts are owned—

18 “(1) the number of employees of the applicable
 19 policyholder at the end of the year,

20 “(2) the number of such employees insured
 21 under such contracts at the end of the year,

22 “(3) the total amount of insurance in force at
 23 the end of the year under such contracts,

24 “(4) the name, address, and taxpayer identifica-
 25 tion number of the applicable policyholder and the

1 type of business in which the policyholder is en-
 2 gaged, and

3 “(5) that the applicable policyholder has a valid
 4 consent for each insured employee (or, if all such
 5 consents are not obtained, the number of insured
 6 employees for whom such consent was not obtained).

7 “(b) RECORDKEEPING REQUIREMENT.—Each appli-
 8 cable policyholder owning 1 or more employer-owned life
 9 insurance contracts during any year shall keep such
 10 records as may be necessary for purposes of determining
 11 whether the requirements of this section and section
 12 101(j) are met.

13 “(c) DEFINITIONS.—Any term used in this section
 14 which is used in section 101(j) shall have the same mean-
 15 ing given such term by section 101(j).”.

16 (c) CONFORMING AMENDMENTS.—

17 (1) Paragraph (1) of section 101(a) of such
 18 Code is amended by striking “and subsection (f)”
 19 and inserting “subsection (f), and subsection (j)”.

20 (2) The table of sections for subpart A of part
 21 III of subchapter A of chapter 61 of such Code is
 22 amended by inserting after the item relating to sec-
 23 tion 6039H the following new item:

“Sec. 6039I. Returns and records with respect to employer-owned life insurance
 contracts.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to life insurance contracts issued
3 after the date of the enactment of this Act, except for a
4 contract issued after such date pursuant to an exchange
5 described in section 1035 of the Internal Revenue Code
6 of 1986 for a contract issued on or prior to that date.
7 For purposes of the preceding sentence, any material in-
8 crease in the death benefit or other material change shall
9 cause the contract to be treated as a new contract except
10 that, in the case of a master contract (within the meaning
11 of section 264(f)(4)(E) of such Code), the addition of cov-
12 ered lives shall be treated as a new contract only with re-
13 spect to such additional covered lives.

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